The Payment Limitation Integrity Act of 2005
Point Sheet

The single most effective thing Congress could do to strengthen family farms is to stop subsidizing mega farms to drive them out of business by bidding land away from them. The Payment Limitation Integrity Act takes a step in that direction by closing payment liomitation loopholes and reducing waste, fraud and abuse in federal farm programs.

Loophole Closings – Under the Act, USDA would be directed to promulgate regulations to prevent schemes to avoid payment limitations. USDA would be directed to count all payments on production under primary control of a person toward that person's limitation, under certain circumstances. This would prevent mega farms from avoiding the limitations by putting crop ownership and payments under other names, while themselves controlling production.

These regulations would come into play only when payments on the production controlled by a person exceed the legal limits. They would apply to large farmers who 1) share rent land for more than the usual and customary rate in return for other concessions to shift payments to the land owner, 2) provide custom farming services to family members or entities that have less than an arms length relationship; or 3) have primary control over a joint operation or multiple entities.

In addition, the Act directs the Secretary to establish measureable standards of active personal management, as recommended by the General Accounting Office and the Payment Limitation Commission. The Act directs that the standards require no less participation than Department of Treasury Regulations for material participation – generally at least 500 hours per year [some believe that should be a minimum of 1000 hours] or half of the total management requirements, whichever is less [which would include really small operations with less than minimum hours].

The Act is consistent with the 2004 GAO recommendation *that the USDA develop measurable standards of significant contribution of active personal management; clarify regulations on what constitutes a scheme or device to effectively evade payment limit.*

GAO specifically criticized USDA's failure to specify what "significant contribution of active personal management" entails. Of 59 files that the GAO reviewed, 30 appeared to have recipients with little involvement in the organization. In one case, partners met the active management test by doing nothing more than participating in several conference calls.

The other method of circumventing payment limits involved setting up legal entities to receive the maximum possible farm payments, and then channeling these payment to associated non-farm entities, often a single family or partnership. A general partnership farming 50,000 acres was divided into more than 30 corporations, which collected over $5 million in farm payments.

The Commission on Application of Payment Limitations for Agriculture established by the last farm bill raised similar concerns and concluded: "This concern could be addressed by combining the active personal labor or management requirement into a single criterion: active labor and management. *The Commission did not develop explicit criteria and believes USDA* *should define active personal labor and management through rulemaking to ensure the individuals contribution to the operation is meaningful and measurable.*

Additional Rationale for the Act – Farmers are not well served by current law. It imposes no real limit on anyone who spends money on a good lawyer. Thus, it subsidizes the nation's largest farms to drive their neighbors out of business by bidding land away from them.

Large, aggressive operations use payments to bid up land prices to get more acres. Virtually all of the program benefits are bid into higher land prices – increasing cash rents, land payments and property taxes. As a result, farm program payments are offset by increased production costs and, in the end, do nothing to improve the income of farmers except on previously owned land.

In short, the farm program encourages farmers to do things that drive down agricultural profitability. In the book ***Competitive Advantage***, Harvard Business professor Michael Porter observes that when multiple firms engage in aggressive competition to become the high-volume, low-margin producer in an industry, the result for profitability can be "disastrous". That is happening in counties across the American farm belt, fueled by uncapped federal payments.

With foreign competition and uncompetitive markets driving down commodity prices, the last thing we need is policy that unnecessarily inflates land costs. Not only does it lower farm profitability, it lays the groundwork for a land price collapse, should the federal spigot tighten.

Neither farmers nor rural America are well served when federal dollars fuel the consolidation of farming into fewer hands. It is destroying mid-size farms and depriving us of an entire generation of young farmers, undermining the rural communities in which all farmers have a stake. That's bad for all of us.

Finally, enforcing payment limitations is better way to meet federal budget constraints than cutting programs that offer a future to rural America. Recent budget cuts have heavily hit conservation and rural development programs, directly counter to the will of farm state citizens.

A recent Kellogg Foundation poll demonstrated the voters in Iowa, Kansas and Minnesota overwhelmingly favor achieving budget cuts through payment limitations over cuts in conservation, rural development and nutrition programs and across the board the cuts in farm programs. The support for payment limitations was strongest among farmers and Republicans.

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